



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF P-T-G-

DATE: SEPT. 19, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, an IT services business, seeks to employ the Beneficiary as a software engineer. It requests classification of the Beneficiary as an advanced degree professional under the second preference immigrant category. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based “EB-2” immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director of the Nebraska Service Center denied the petition on the ground that the Beneficiary does not have a bachelor’s degree or a foreign equivalent degree and therefore does not qualify for the requested classification of advanced degree professional.

On appeal the Petitioner submits additional evidence, asserts that the Director did not properly consider all of the Beneficiary’s educational credentials, and claims that the Beneficiary qualifies for advanced degree professional classification because he has the equivalent of a U.S. bachelor of science degree in computer information systems.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

A. Employment-Based Immigrant Petition Process

Employment-based immigration generally follows a three-step process. First, an employer obtains an approved labor certification from the U.S. Department of Labor (DOL). *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). By approving the labor certification, the DOL certifies that there are insufficient U.S. workers who are able, willing, qualified, and available for the offered position and that employing a foreign national in the position will not adversely affect the wages and working conditions of U.S. workers similarly employed. *See* section 212(a)(5)(A)(i)(I)-(II) of the Act. Second, the employer files an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Third, if USCIS approves the petition, the foreign national may apply for an immigrant visa abroad or, if eligible, adjustment of status in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

B. Advanced Degree Professional Classification

The term “advanced degree” is defined in the regulation at 8 C.F.R. § 204.5(k)(2) as follows:

Advanced degree means any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master’s degree.

As provided in the regulation at 8 C.F.R. § 204.5(k)(3)(i), a petition for an advanced degree professional must be accompanied by either:

- (A) An official academic record showing that the alien has a United States advanced degree or a foreign equivalent degree; or
- (B) An official academic record showing that the alien has a United States baccalaureate degree or a foreign equivalent degree, and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty.

II. ANALYSIS

The issue on appeal is whether the Beneficiary has the requisite credentials, based on his studies and work experience in India, to qualify for advanced degree professional classification. As indicated in the above regulations, the minimum requirements for that classification are either (1) a U.S. master’s degree or a foreign equivalent degree, or (2) a U.S. baccalaureate degree or a foreign equivalent degree plus five years of post-graduate experience in the specialty. The Petitioner does not claim that the Beneficiary qualifies under the first option, but claims that he qualifies under the second option with a foreign equivalent degree to a U.S. bachelor’s degree plus five years of experience as a software consultant.

As evidence of the Beneficiary’s educational credentials the Petitioner has submitted the following materials:

- A diploma and transcripts from the State Board of Technical Education and Training in [redacted] India, showing that the Beneficiary was awarded a diploma in computer technology from [redacted] in [redacted] after six semesters of coursework in April 2004;
- A degree certificate and transcript from [redacted] University in [redacted] India, showing that the Beneficiary earned a bachelor of computer applications (lateral) in May 2009;
- An evaluation of the Beneficiary’s educational credentials by Education Equivalency Analysis & Certifiers, LLC (EEAC evaluation), which asserts that the Beneficiary’s diploma in computer technology from [redacted] is equivalent to a U.S. high school diploma and 30 credits toward an associate degree in computer technology from a

- U.S. college or university, and that the Beneficiary's bachelor of computer applications from [] University is a three-year undergraduate program equivalent to a bachelor of science degree in computer information systems from a U.S. college or university; and
- Another evaluation of the Beneficiary's educational credentials by [] of [] University ([] evaluation) which, akin to the EEAC evaluation, asserts that the Beneficiary's diploma in computer technology from [] is equivalent to a U.S. high school diploma and 30 credits toward a bachelor's degree in computer information systems from a U.S. college or university, and that the Beneficiary's bachelor of computer applications from [] University is a three-year undergraduate program equivalent to a bachelor of science degree in computer information systems from a U.S. college or university. The [] evaluation also references a report by World Education Services (WES) in 2008¹ which states that selected three-year bachelor's degrees from India can be considered equivalent to U.S. bachelor's degrees, and asserts that the Beneficiary's degree from [] University meets the WES criteria for equivalency to a U.S. bachelor's degree.

As evidence of the Beneficiary's post-graduate experience the Petitioner submitted a letter from [] [] headquartered in [] India, which stated that the Beneficiary was employed as an assistant consultant from July 2011 to August 2017 and described his job duties.

While it appears that the Beneficiary had more than five years of qualifying experience before the priority date of the petition, which was September 18, 2017,² the record does not show that the Beneficiary's educational credentials from India include a foreign equivalent degree to a U.S. baccalaureate degree.

A baccalaureate degree in the United States generally requires four years of academic study. *See Matter of Shah*, 17 I&N Dec. 244, 245 (Reg'l Comm'r 1977). Based on the evidence of record, it is evident that the Beneficiary's bachelor of computer applications from India's [] University is a three-year degree. According to the Educational Database for Global Education (EDGE),³ created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO),⁴ a three-year bachelor of computer applications degree in India comprises three years of tertiary study beyond the "higher secondary certificate" (comparable to a high school diploma in the United States) and is comparable to three years of university study in the United States, not a full bachelor's degree. EDGE

¹ The WES report is identified as WENR September 2008, Volume 21, Issue 7, available at <http://www.wes.org/ewent/08sept/practical.htm>.

² The priority date of a petition is the date the underlying labor certification was filed with the DOL. *See* 8 C.F.R. § 204.5(d). A petitioner must establish that it meets all the eligibility requirements for the immigration benefit it seeks by the priority date.

³ EDGE is described on its information page as "a valuable resource for evaluating educational credentials earned in foreign systems, whether the purpose is ultimately for admission into an institution of higher learning in the United States, to obtain employment, to establish visa eligibility, or to qualify for additional professional qualifications." <https://www.aacrao.org/resources/AACRAO-International/about-edge> (last visited Aug. 21, 2019).

⁴ AACRAO is described on its website as "a nonprofit, voluntary, professional association of more than 11,000 higher education admissions and registration professionals who represent more than 2,600 institutions in over 40 countries." <http://www.aacrao.org/who-we-are> (last visited Aug. 21, 2019).

also states that the entry requirement for any three-year bachelor's degree program in India is a higher secondary certificate – in other words, a high school level education in the United States.

Courts have supported our utilization of EDGE as a resource for determining the U.S. equivalency of foreign degrees. In *Confluence Intern., Inc. v. Holder*, 2009 WL 825793 (D.Minn. March 27, 2009), the court determined that the AAO provided a rational explanation for its reliance on information provided by AACRAO to support its decision. In *Sunshine Rehab Services, Inc.* 2010 WL 3325442 (E.D.Mich. August 20, 2010), the court upheld a USCIS determination that the alien's three-year bachelor's degree was not a foreign equivalent degree to a U.S. bachelor's degree. Specifically, the court concluded that USCIS was entitled to prefer the information in EDGE and did not abuse its discretion in reaching its conclusion. In *Tisco Group, Inc. v. Napolitano*, 2010 WL 3464314 (E.D.Mich. August 30, 2010), the court found that USCIS had properly weighed the evaluations submitted and the information obtained from EDGE to conclude that the alien's three-year foreign "baccalaureate" and foreign "Master's" degree were only comparable to a U.S. bachelor's degree.

The EEAC evaluation asserts that the Beneficiary's diploma in computer technology from [redacted] (earned upon completion of a three-year program that began after 10th grade) is equivalent to a high school education in the United States plus 30 credits toward an associate degree. The evaluation seems to imply that these 30 credits should be added to the 90 credits earned in the bachelor's degree program at [redacted] University, leading to the conclusion that the Beneficiary's three-year Indian degree is equivalent to a U.S. bachelor's degree. The EEAC evaluation acknowledges, however, that a high school education is all that was required to enter the three-year bachelor of computer applications program at [redacted] University, which accords with the aforementioned information in EDGE that the entry requirement for any three-year bachelor's degree program in India is a high school level education. Thus, the bachelor of computer applications at [redacted] University is a stand-alone three-year degree, and the EEAC evaluation offers no rationale for including any of the Beneficiary's preceding coursework at [redacted] in its evaluation of that degree's U.S. equivalency. Nor does the EEAC evaluation provide any substantive explanation for why the Beneficiary's three-year Indian degree should be considered equivalent to a U.S. bachelor's degree which, as previously mentioned, generally comprises four years of academic study. *Matter of Shah*, 17 I&N Dec. at 245.

Furthermore, there is no provision in the statute or the regulations that would allow a beneficiary to qualify under section 203(b)(2) of the Act as a member of the professions holding an advanced degree with anything less than a full baccalaureate degree (plus five years of progressive experience in the specialty). Where the analysis of the beneficiary's credentials relies on a combination of lesser credentials and/or degrees, the result would be the "equivalent" of a bachelor's degree rather than a "foreign equivalent degree." In order to have education equating to an advanced degree under section 203(b)(2) of the Act, the beneficiary must have a single degree that is the "foreign equivalent degree" to a United States baccalaureate degree (plus five years of progressive experience in the specialty). See 8 C.F.R. § 204.5(k)(2).

The [redacted] evaluation closely tracks the EEAC evaluation in discussing the Beneficiary's two educational credentials and evaluating their U.S. equivalency, but adds the aforementioned WES

report to its evaluation of the Beneficiary's bachelor of computer applications degree. The key finding of the WES report, according to [REDACTED] is that selected three-year degrees in India are functionally equivalent to U.S. bachelor's degrees. As explained by [REDACTED] specific degree equivalencies determined by WES are based on the relative standing of the university, as graded by India's National Assessment and Accreditation Council (NAAC), and the classification of the degree based on the student's marks. According to [REDACTED] the Beneficiary's three-year bachelor of computer applications, as a Class 1 degree from a grade A university, would be evaluated by WES as equivalent to a U.S. bachelor's degree, whereas three-year degrees that do not meet those criteria continue to be evaluated as equivalent to three years of undergraduate study. There is no WES evaluation in the record, however, and [REDACTED] offers no explanation as to why [REDACTED] University's Grade A rating from NAAC and the Beneficiary's first class ranking based on his course marks should elevate the Beneficiary's three-year degree to the equivalent of a U.S. bachelor's degree. [REDACTED] does not explain why a university's ranking and a student's marks, rather than the volume and substance of the coursework, should determine the U.S. equivalency of the Beneficiary's degree.

Evaluations of foreign educational credentials by evaluation services and individual evaluators are utilized by USCIS as advisory opinions only. When an evaluation is not in accord with evidence in the record or is in any way questionable, USCIS need not accept it or may give it less weight. See *Matter of Caron International*, 19 I&N Dec. 791 (Comm'r 1988); *Matter of Sea, Inc.*, 19 I&N Dec. 817 (Comm'r 1988). For the reasons discussed above, the EEAC and [REDACTED] evaluations have little probative value. They do not establish that the Beneficiary's educational credentials include a U.S. baccalaureate degree or a foreign equivalent degree.

Finally, since the Beneficiary does not have a U.S. baccalaureate or foreign equivalent degree, his employment as a consultant in India during the years 2011-2017 do not constitute post-baccalaureate experience, as required to meet the experience requirement for advanced degree professional classification under 8 C.F.R. § 204.5(k)(3)(i), which requires at least five years of post-baccalaureate experience in the specialty.

III. CONCLUSION

The Petitioner has not established that the Beneficiary has a U.S. baccalaureate degree or a foreign equivalent degree, as required for classification as an advanced degree professional. The appeal will be dismissed for the above stated reason. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has not met that burden.

ORDER: The appeal is dismissed.

Cite as *Matter of P-T-G-*, ID# 6091677 (AAO Sept. 19, 2019)